



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,494	06/12/2001	Carol B. Gell	PPC-787	5028

27777 7590 12/04/2002
AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/879,494

Applicant(s)

GELL ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-28 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-11 is/are rejected.
- 7) ☒ Claim(s) 3,4 and 12-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-2 and 5-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Samuelsson et al. (6,425,890).

With respect to claim 1, Samuelsson discloses a feminine hygiene pad 1, as shown in figure 1, comprising a main pad body 5, having an absorbent core 6 positioned between a cover material 2 and a barrier layer 3. The pad 1 further comprises a rear end that may be located in proximity to a wearer's buttocks, and an opposed front end having a first face in contact with a wearer's body and a second face in contact with a wearer's undergarment, as shown in figure 3. The absorbent core 6 does not extend significantly beyond the anterior portion of the perineum of a wearer. The pad 1 further comprises a strip 9 that extends rearwardly from the main pad body 5. The strip 9 is

Art Unit: 3761

substantially planar, and has a thickness less than that of the main pad body 5, as shown in figure 3. The strip 9 is capable of being received between the buttocks of a wearer, thereby contributing to the stability of the pad 1. The strip 9 is comprised of materials that are able to be stretched, as disclosed in column 4, lines 35-57. While Samuelsson does not explicitly disclose the materials as being stretchable, it is well-known in the art that nonwoven fabrics and films are inherently stretchable. The length of the strip 9 can be adjusted by a wearer by stretching the material of the strip 9.

With respect to claim 2, the length of the main pad body 5 is between 7 cm and 14 cm, as disclosed in column 5, lines 39-41.

With respect to claim 5, the second face comprises an area of adhesive 15, as disclosed in column 5, lines 7-10.

With respect to claim 6, the pad 1 further comprises a front flap 8 extending forwardly from the front end of the main pad body 5, as shown in figure 3.

With respect to claim 7, the front flap 8 is comprised of materials that are able to be stretched, as disclosed in column 4, lines 35-57.

With respect to claim 8, the front flap 8 comprises an area of adhesive 15, as shown in figure 3, which is capable of being attached to the undergarment of a wearer.

With respect to claim 9, the front flap comprises an area of adhesive 15, as shown in figure 3, which is capable of being attached to the body of a wearer. The front flap 8, for example may be folded over to allow the area of adhesive 15 to attach to the body of a wearer while the pad 1 is in use.

With respect to claim 10, the strip 9 is flexible.

Art Unit: 3761

With respect to claim 11, the materials comprising the strip 9 are non-elastic, as disclosed in column 4, lines 35-57, and therefore will not return to their original length when stretched. The adjustment means are therefore non-elastic.

Allowable Subject Matter

Claims 3-4 and 12-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19-28 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

CWA

cla

November 29, 2002



DENNIS RUHL
PRIMARY EXAMINER